

323-04/MEU/LJK
FREEHILL HOGAN & MAHAR, LLP
Attorneys for Plaintiff
HBC Hamburg Bulk Carriers GmbH & Co. KG
80 Pine Street
New York, NY 10005
(212) 425-1900
(212) 425-1901 fax
Michael E. Unger (MU 0045)
Lawrence J. Kahn (LK 5215)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HBC HAMBURG BULK CARRIERS GMBH
& CO. KG,

04 CIV 6884 (NRB)

Plaintiff,

ECF CASE

-against-

VERIFIED COMPLAINT

PROTEINAS Y OLEICOS S.A. DE C.V.,

Defendant.
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Plaintiff HBC HAMBURG BULK CARRIERS GMBH & CO. KG (hereinafter, "HBC"), through its attorneys Freehill Hogan & Mahar, LLP, as and for its Verified Complaint against Defendant PROTEINAS Y OLEICOS S.A. DE C.V. (hereinafter, "PO"), alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure in that it involves a claim for the breach of a maritime contract of affreightment. The case also falls within the Court's admiralty and maritime jurisdiction pursuant to 28 U.S.C. §1333. Finally, the Court has jurisdiction pursuant to 9 U.S.C. §203, which provides that any action or proceeding falling under the Convention for the Recognition and Enforcement of Foreign Arbitral Awards shall be deemed to arise under the laws and treaties of the United States.

2. At all times relevant hereto, Plaintiff HBC was and still is a foreign business entity duly organized and existing under the laws of a foreign country with a registered office at Osdorfer Landstrasse 233, 22549 Hamburg, Germany.

3. At all times relevant hereto, Defendant PO was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at Calle 17, No. 409-A Tercer Nivel, Esquina 20 y 28 Ciudad Indust, Merida, YUC, 97288, Mexico.

4. On or about March 8, 2004, Plaintiff HBC entered into a maritime contract with Defendant PO, in the form of a North American Grain charter party pursuant to which HBC agreed to provide vessels to PO for the carriage of three cargoes of soyabeans from ports in Tubaro, Brazil to ports in Progreso or Altamira, Mexico (hereinafter, "the Charter Party").

5. The Charter Party was subsequently amended to provide for two additional voyages (Voyages 4 and 5). A copy of the Charter Party with addenda, is annexed hereto as **Ex. 1**.

5. Pursuant to the Charter Party, Defendant PO declared Voyages 1, 2 and 3 and Plaintiff HBC supplied the M/V SEA LAVENDER, M/V IRINI F and M/V ZENOVIA respectively in fulfillment of Plaintiff's obligations.

6. Plaintiff HBC earned demurrage in the amount of \$141,336.11 in connection with Voyage 1 on the M/V SEA LAVENDER and \$36,302.09 in connection with Voyage 2 on the M/V IRINI F. Defendant PO was given a credit for despatch in the amount of \$15,208.33 in connection with Voyage 3 on the M/V ZENOVIA.

7. In total, Defendant PO incurred demurrage and other charges related to Voyages 1, 2 and 3 in the amount of \$162,428.11, and Plaintiff HBC has made a demand for the outstanding demurrage and other charges related to Voyages 1, 2 and 3, but Defendant PO has failed or otherwise refused to pay and said amount remains past due and owing to Plaintiff.

8. Defendant PO's failure to pay the outstanding demurrage is a breach of the Charter Party contract.

9. Pursuant to Addendum 3 to the Charter Party, Defendant PO was required to declare the destination and quantity for Voyage No. 4 on or before August 6, 2004. Plaintiff HBC contacted Defendant PO and requested that PO declare Voyage No. 4, but Defendant PO failed or otherwise refused to make its required declaration of Voyage No. 4.

10. HBC calculates its losses arising out of PO's failure or refusal to declare Voyage No. 4 to be \$516,071. This calculation assumes PO would have declared their minimum cargo obligation and that HBC had opted to lift an additional 10%, as was HBC's entitlement under the Charter Party. HBC also assumes that it would have been able to provide tonnage to perform the business at a rate of \$19,159 per day, which was the prevailing rate at the time for vessels of the type required by PO for performing a similar service.

11. Pursuant to Addendum 3 to the Charter Party, Defendant PO was required to declare the quantity and destination for Voyage No. 5 on or before August 20, 2004. Plaintiff HBC contacted Defendant PO and requested that PO declare Voyage No. 5, but

Defendant PO failed or otherwise refused to make its required declaration of Voyage No. 5.

12. HBC calculates its losses arising out of PO's failure or refusal to declare Voyage No. 5 to be \$516,071. This calculation assumes PO would have declared their minimum obligation under the Charter Party and that HBC had opted to lift an additional 10%, as was HBC's entitlement. HBC also assumes that it would have been able to provide tonnage to perform the business at a rate of \$19,159 per day, which was the prevailing rate at the time for vessels of the type required by PO for performing a similar service.

13. As a result of the foregoing, Defendant PO is thus in actual default of the Charter Party in respect of the duty to declare Voyages 4 and 5 and in actual default of the Charter Party in respect of the failure or refusal to pay the demurrage and related charges that are currently past due.

14. Accordingly, HBC calculates its total estimated damages to be \$1,194,570.11.

15. Despite due demand for its claim of \$1,194,570.11, PO has refused or otherwise failed to pay HBC.

16. The Charter Party, at Clause 44, provides that all disputes arising under the Charter Party shall be resolved by arbitration at London according to English law. Plaintiff HBC specifically reserves its right to arbitrate the substantive matters at issue herein.

17. Upon information and belief, and after investigation, Defendant PO cannot be "found" within this District for the purpose of Rule B of the Supplemental Rules of

Certain Admiralty and Maritime Claims, but Plaintiff is informed that Defendant has, or will shortly have, assets within this District comprising of, *inter alia*, cash, funds, credits, wire transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendant PO ("ASSETS"), including but not limited to ASSETS at, being transferred through, or being transferred and/or wired to or from Bank of New York, Credit Suisse, Bank of America N.A., JP Morgan Chase Bank or others, including but not limited to ASSETS in accounts maintained at Bank of New York account numbers FTS0407086586400 and/or FTS0407091036400, and/or ASSETS in accounts maintained at Bank of America N.A. account numbers 012034001MER and/or 010474001MER, and/or ASSETS in an account maintained at JP Morgan Chase Bank account number 211-06-0020540-S.

18. The total amount sought to be attached pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims by HBC against PO includes (i) the calculated demurrage and related charges damages of \$162,428.11; (ii) the calculated damages for the failure or refusal to declare Voyage No. 4 of \$516,071; (iii) the calculated damages for the failure or refusal to declare Voyage No. 5 of \$516,071; (iv) interest which is recoverable in London arbitration estimated to the time of the entry of the arbitral award of \$224,838;¹ (v) estimated attorneys fees and disbursements, which are recoverable in London arbitration of \$110,000; and (vi) estimated arbitrators fees, which are recoverable in London arbitration of \$61,000, is as nearly as can presently be estimated to be in the amount of \$1,590,408.11.

¹ Interest is calculated at 7% over a period of 2½ years on the base amount of the claim comprising of the demurrage and related charges added to the damages for the two voyages that were not declared. Rules of London arbitration allow for recovery of interest at prime plus 1% compounded, typically, at quarterly rests, and 2½ years is typical of the length of time from initiation of London arbitral proceedings to entry of an award thereon.

WHEREFORE, Plaintiff HBC prays:

a. That process in due form of law according to the practice of this Court may issue against Defendant PO, citing it to appear and answer the foregoing, failing which a default will be taken against it for the principal amount of the claim of \$1,194,570.11 plus interest;

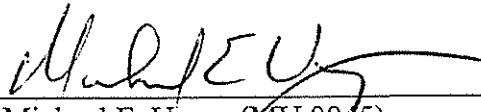
b. That if Defendant PO cannot be found within this District pursuant to Supplemental Rule B that all assets of Defendant PO, up to **\$1,590,408.11**, to cover the base amount of the claim, estimated interest, estimated attorneys fees and the estimated cost of the arbitration be restrained and attached, including but not limited to any cash, funds, credits, wire transfers, accounts, letters of credit, freights, sub-freights, charter hire, sub-charter hire, and/or other assets of, belonging to, due or for the benefit of Defendant PO, by Bank of New York and/or Credit Suisse and/or Bank of America N.A. and/or JP Morgan Chase Bank and/or any other garnishee(s) upon whom a copy of the Process of Maritime Attachment and Garnishment issued herein may be served;

c. That the Court enter an order directing Defendant PO to appear and respond in arbitration pursuant to the terms of the Charter Party; and

d. That the Plaintiff have such other, further and different relief as this Court may deem just and proper in the premises.

Dated: New York, New York
August 25, 2004

FREEHILL HOGAN & MAHAR, LLP
Attorneys for Plaintiff
HBC Hamburg Bulk Carriers GmbH & Co. KG

By: 
Michael E. Unger (MU 0045)
Lawrence J. Kahn (LK 5215)

80 Pine Street
New York, NY 10005
Telephone (212) 425-1900
Facsimile (212) 425-1901

ATTORNEY VERIFICATION


State of New York)
) ss.:
County of New York)

Michael E. Unger, being duly sworn, deposes and says:

1. I am a member of the law firm of Freehill Hogan & Mahar, LLP, attorneys for the Plaintiff in this action, I have read the foregoing Verified Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.

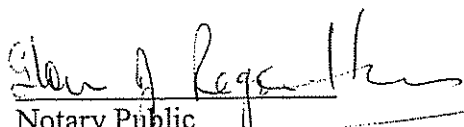
2. The sources of my information and the grounds for my belief are communications from our client and documents provided by our client regarding the claim.

3. The reason this verification is made by an attorney and not by the Plaintiff is because the Plaintiff is a foreign entity, none of whose officers are presently within this Judicial District.



Michael E. Unger (MU 0045)

Sworn to before me this
25th day of August, 2004



Notary Public

GLORIA J. REGIS HOSEIN
Notary Public, State of New York
No. 01RE6065625, Qualified in Kings County
Certificate Filed in New York County
Commission Expires October 22, 2005



Exhibit 1

Ex. 1

Code Name: Norgrain

RECOMMENDED BY
NORTH AMERICAN EXPORT GRAIN ASSOCIATION
THE BALTIC AND INTERNATIONAL MARITIME CONFERENCE
CHAMBER OF SHIPPING OF THE UNITED KINGDOM
ASSOCIATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND
AGENTS

AMENDED 1/7/74

NORTH AMERICAN GRAIN CHARTERPARTY 1973

ISSUED BY THE ASSOCIATION OF SHIP BROKERS AND AGENTS (U.S.A.) INC.

Hamburg, 10th March, 19 2004

Contract: IT IS THIS DAY MUTUALLY AGREED, between, HEC HAMBURG BULK CARRIERS, GENB & CO. KG, Hamburg
 Name: *Director* of the *S/S. Selfton Self Trimming Bulk Carrier*
 of *M.V. Towner-Dexter* *HEC - TBN* *Call Sign*
 Description of Vessel: *Chartered Owners* *Tanker* *HEC - TBN* *Telox*
 See Clause 64. *deadweight of 14,000 tons and with a grain cubic capacity available for cargo of 2,340 lbs.*
 Classification: *Classed Lloyd's of London* *In Lloyd's Register of Shipping* *now Trading*

Note: *Letter*
*refer to Clause 64.*Charter: *and PROTEINAS Y OLEICOS S.A. de C.V. MEXIDA* of *Yucatan, Mexico* Chartererspossible Loading Port(s): *1. That the said vessel, being tight, staunch and strong and in every way fit for the voyage, shall with all convenient speed proceed to and arrive at*3 cargoes: *at* *safe loading berth in Charter's option,* *always afloat, off and complete cargo in bulk of SOYABEANS stowing maximum 47mt for each shipment one grade only - 30,000 mts to PROGRESO or ALTAMIRA,**port in Charter's option, 140,000 mts to ALTAMIRA. First cargo 15th/20th April: 40,000 mts 10% more or less in Owners' option to Atlanta, 600,000 mts Clause 62.**at Charter's option. 10,000 mts, 2,340 lbs. 10% more or less, quantity at Owners' option.*

Notice and Loading Port Orders: *2. Owners are to give Charterers (or their Agents) telegraphic address, 15 and 7 days' notice of vessel's expected readiness to receive cargo, and approximate quantity of cargo required, with the 15 days' notice, with quantity to be used on 2nd day of heavy weather, unless the cargo compartment has been declared or indicated.*

The Charterers are to be kept continuously advised by telegraphic address of any alteration in vessel's readiness to load date.
Master to apply to 10,000 mts, 2,340 lbs. 10% more or less, quantity at Owners' option.
for first or second loading port order. 14,000 mts, 2,340 lbs. 10% more or less, quantity at Owners' option.
Charterers of this Charter are to give orders for first or second loading port within 12 hours of receipt of Master's application, unless given earlier.
Orders for second port of loading, if used, to be given to the Master not later than 10,000 mts, 2,340 lbs. 10% more or less, quantity at Owners' option.

900 71

<p>Closed on Board</p> <p>Issue undeposited loadport demurrage or plus loadport demurrage, whatever applicable, within three (3) banking days after signing</p>	<p>Freight Payment.</p> <p>100 %</p> <p>9.-(a) If vessel discharges in the United Kingdom including Northern Ireland, freight shall be payable by Charterers concurrently with discharge on arrival to Owners or their designated Agents of ... currency.</p> <p>(b) For all other destinations, freight shall be fully prepaid on issuance of signed Bills of Lading in marked "Freight payable as per Charter Party" ... currency.</p> <p>10. Bill of Lading. Bill of Lading shall be issued for cargo loaded on board, net weight, tare, weight, and volume, and shall be subject to the weight and volume of cargo as shown on the Bill of Lading. Freight shall be deemed earned as cargo is loaded on board. Once the Bills of Lading have been signed, and Charterers call for surrender of Original Bills of Lading against freight payment above, it will be incumbent upon Owners or their Agents to comply immediately with such call for surrender during office hours Monday to Friday inclusive. See also Clause 60.</p> <p>(c) ...</p> <p>(d) Damurrage / demurrage to be settled after final discharge, together with final accounts within 30 days after receipt by Charterers respectively Owners' relevant documents including laytime statements, Statements of Facts and Notices of Readiness for all ports.</p> <p>(e) Cargo is to be loaded, stowed, trimmed (to Master's satisfaction in respect of seaworthiness) free of expense to the vessel. Any additional trimming required, Cargo is to be loaded, stowed and trimmed at Owner's expense. Cargo is to be discharged free of expense to the vessel (to Master's satisfaction in respect of seaworthiness).</p>	<p>over and above apportioning, to be for Owners' time, risk and expense.</p> <p>Cost of Loading and Discharging.</p> <p>10.-(a) Cargo is to be loaded, stowed, trimmed (to Master's satisfaction in respect of seaworthiness) free of expense to the vessel. Any additional trimming required, Cargo is to be loaded, stowed and trimmed at Owner's expense. Cargo is to be discharged free of expense to the vessel (to Master's satisfaction in respect of seaworthiness).</p> <p>(b) ...</p>	<p>Stewards at Loading Ports are to be appointed by Charterers* and paid by Charterers*.</p> <p>11.-(a) Stewards at Loading Ports are to be appointed by Charterers* and paid by Charterers*.</p> <p>12.-(b) The vessel is warranted to be a self-trimming bulk carrier.*</p> <p>13.-(c) Expenses</p> <p>(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.</p> <p>(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be for equally shared between the Owners and Charterers* account.</p> <p>(iii) Overtime expenses for vessel's officers and crew shall always be for Owners' account.</p> <p>14.-(d) Expenses</p> <p>(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.</p> <p>(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be for equally shared between the Owners and Charterers* account.</p> <p>(iii) Overtime expenses for vessel's officers and crew shall always be for Owners' account.</p>	<p>to be loaded into clean, clean and unobstructed main holds only. No cargo to be loaded into wing tanks / deep tanks or any other inaccessible spaces.</p> <p>Overline.</p> <p>13.-(a) Expenses</p> <p>(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.</p> <p>(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be for equally shared between the Owners and Charterers* account.</p> <p>(iii) Overtime expenses for vessel's officers and crew shall always be for Owners' account.</p> <p>14.-(d) Expenses</p> <p>(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.</p> <p>(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be for equally shared between the Owners and Charterers* account.</p> <p>(iii) Overtime expenses for vessel's officers and crew shall always be for Owners' account.</p>	<p>Separations.</p> <p>14.-(d) Expenses</p> <p>(i) All overtime expenses at loading and discharging port(s) shall be for account of the party ordering same.</p> <p>(ii) If overtime is ordered by port authorities or the party controlling the loading and/or discharging terminal or facility all overtime expenses are to be for equally shared between the Owners and Charterers* account.</p> <p>(iii) Overtime expenses for vessel's officers and crew shall always be for Owners' account.</p> <p>15.-(a) For Owners' account</p> <p>Any securing (lashing or strapping, etc.) required by Master, National Cargo Bureau or Port Workers for safe lashing to be supplied by and paid for by Owners, and line as used not to count as laytime or time on demurrage. Lashing of bags, if any, at discharge port(s) to be at Owners' expense and time actually lost is not to count.</p> <p>(b) For Charterers' account</p> <p>Any securing (lashing or strapping, etc.) required by Master, National Cargo Bureau or Port Workers for safe lashing to be supplied by and paid for by Charterers, and line as used not to count as laytime or time on demurrage. Lashing of bags, if any, at discharge port(s) to be at Charterers' expense and time actually lost is not to count.</p>
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or by cable / VHF, provided vessel arrived within the commercial limits of the port or at the port's customary anchorage place, (or their Agents)	Opening/ Closing Hatches.	16.-(a)* At each loading and discharging port, part of first opening and last closing of hatch, and removal and replacing of beams, if any, shall be for Owners' benefit. Cost of all other opening and closing of hatches, removal and replacing of beams shall be for Charterers' benefit. (b)* At each loading and discharging port, cost of all opening and closing of hatches and removal and replacing of beams, if any, shall be for Owners' benefit. Charterers' benefit, account, provided local regulations permit.
Time Counting.	Counting.	17.-(a) Notice of Readiness and Commencement of Laytime Notification of vessel's readiness to load and/or discharge at the first or last loading and/or discharging port, shall be delivered in writing at the office of Charterers (or their Agents) between the hours of 0900 to 1700 on all days except Sundays and holidays; and between the hours of 0900 to 1200 on Saturdays. Charterers' benefit shall not be required to accept notice of readiness to load or discharge at the first or last loading and/or discharging port, where applicable. If the loading and/or discharging berth is unavailable, Master may tender vessel's notice of readiness from a lay berth or anchorage within the commercial limits of the port subject to the provisions of Clause 17 paragraph (b). Following receipt of notice of readiness to load or discharge as above, laytime will commence at 0800 on the next day, Sundays and holidays excepted (for Saturdays see Clause 18(c)). If Charterers' request the exception of Sundays and holidays to be made, the exception of Saturdays under Clause 18(c) shall not apply. Time actually used before commencement of laytime shall count, null.
Notification of vessel's readiness to discharge at discharging port shall be delivered in writing or by cable/VHF provided vessel arrived within the commercial limits of the port or at the port's customary anchorage place, at any time, day/ night, Sunday/holiday included.	Saturdays At discharge	(b) Waiting for Berth If the vessel is prevented from entering the commercial limits of the loading/discharging port(s) because the first or sole loading/discharging berth or a lay berth or anchorage is not available, or on the order of the Charterers' benefit or any competent official body or authority, and the Master warrants that the vessel is physically ready in all respects to load or discharge, the time spent waiting at a usual waiting place outside the commercial limits of the port or off the port shall count against laytime. Such laytime shall count from vessel's arrival at such usual waiting place and will continue to run as per clause 18 until any of the aforesaid conditions cease to be operative and vessel is so notified by Charterers' benefit or their Agents or any competent authority. If after entering the commercial limits of the loading port, vessel fails to pass inspection as per clause 17 (d), and requires more than four hours' delay, Charterers' benefit shall not apply. If the time spent waiting outside the commercial limits of the port at any time, day, night, Sunday/holiday, is not counted against laytime, it shall not count against laytime or time on demurrage. Time so used is to be added to laytime for time on demurrage used for loading/discharging the entire cargo if Charterers' benefit or any competent authority warrants that the vessel has reached a place within the commercial limits of the port, notice of readiness is to be tendered in accordance with the provision of lines 130 to 135 and laytime is to begin to count in accordance with lines 136 to 137. At first or sole loading port, the cancelling date shall be extended by the number of consecutive days SUNDAY counted to the nearest day spent waiting outside the commercial limits of the port for berth the second time with the provisions of lines 136 to 144.
Saturdays at the average rate of 7.000	Laytime.	(c) Subsequent Ports At second or subsequent port(s) of loading and/or discharging, laytime on time on demurrage shall resume existing from vessel's arrival in loading or discharging berth if available or from vessel's arrival within the commercial limits of the port if berth is unavailable otherwise the provisions of Clause 17 paragraph (b) shall apply. (d) Inspection Sino China 68. At the loading port(s), Master's notice of readiness shall be accompanied by part of the National Cargo Throughput Warden and Grain Inspector's certificate of vessel's readiness to load or discharge, in accordance with the provisions of the Charterparty as per Clause 1. In the event that vessel's berth is subsequently port(s) and is required to be inspected in the port, any time lost thereafter during the required certificate shall not count as laytime or time on demurrage. 18.-(a) Vessel is to be loaded and discharged within working days of twenty-four (24) consecutive hours each (weather permitting), Sundays and holidays excepted (SHEX). (b) Vessel is to be loaded within, from per 1,000 kilos per weather working days of twenty-four (24) consecutive hours each (weather permitting), Sundays and holidays excepted (SHEX), unless used. (c) Vessel is to be discharged at the average rate of 10,000 tons of 1,000 kilos * per working day of twenty-four (24) consecutive hours (weather permitting), Sundays and holidays excepted (SHEX) on the basis of the Bill of Lading weight. (d) Laydays shall be non-reversible. (e) How the loading and/or discharging of the cargo, Sunday shall not count as laytime at loading and discharging port of ports where elevating about and/or grain handling facilities are available on Saturdays or Sundays or at any time and/or premium rates. (f) Where the more of the above is preferred at each port, Saturday shall count as a full day. (g) In the event that the vessel is waiting for loading or discharging berth, no laytime is to be deducted during such period for reasons of weather unless the vessel occupying the loading or discharging berth in question is actually prevented from working from due to weather conditions in which case time so lost is not to count.

* Delete as appropriate.

<p>toes in Owners' option and US\$ 34,000 - for 40,000 mts 10% more or less in Owner's option over and above the cost which would have been incurred if the vessel first processed direct to subsequent loading or discharging berth,</p>	<p>19. - Demurrage at loading and/or discharging ports, if incurred, to be paid at the rate of US\$ 30,000 per 20,000 mts 10% more or less per day or pro rata for part of a day and shall be paid by Charterers in respect of loading ports and by Charter/Receivers in respect of discharging ports. Dispatch money to be paid by Owners at half the demurrage rate for all laytime saved at loading and/or discharging ports. Any time lost for which Charter/Receivers are responsible, which is not excepted under this Charterparty, shall count as laytime, until same has expired, thence time on demurrage.</p>	<p>over and above the cost which would have been incurred if the vessel first processed direct to subsequent loading or discharging berth,</p>	<p>20. - (a) Shifting expenses and time</p> <p>(i) Cost of shifting between loading berths and cost of shifting between discharging berths, including bunker fuel used, to be for Owners' account, time remaining, but laytime used in shifting to count.</p> <p>(ii) If vessel is required to shift from one loading or discharging berth to a lay berth or anchorage due to subsequent loading or discharging berth(s) not being available, all such shifting expenses, and demurrage shall be for Charter/Receivers' account, time remaining, and laytime used in shifting to count.</p> <p>(iii) Cost of shifting from lay berth or anchorage to first loading or first discharging berth to be for Owners' account.</p>	<p>Demurrage/Dispatch</p>	<p>21. - (a) Shifting in and out of the same berth</p> <p>If vessel is required by Charter/Receivers* (or their Agents) to shift out of the loading berth or the discharging berth and back to the same berth, one berth shall be deemed to have been used, but shifting expenses from and back to the loading or discharging berth so incurred shall be for Charter/Receivers' account and laytime or time on demurrage shall count.</p>	<p>Owners warrant that vessel is able to safely load and discharge cargo and discharging ports berths / anchorage, with empty and / or slack holds as per vessel's approved Grain Stability Booklet, without requiring any securing (lashing or strapping, etc.).</p>	<p>(b) Master shall give free use of the vessel's lighting as on board for night work.</p>	<p>Seasonally</p>	<p>22. - If ordered to be loaded or discharged at two or more ports, the vessel is to be left in seaworthy trim to Master's satisfaction from exceeding the requirements of the Safety of Life at Sea Convention as applied in the country in which such ports are situated) for the passage between ports at Charterers' expense at loading and at Charterers/Receivers' expense at discharging ports, and time used for placing vessel in seaworthy trim shall count as laytime or time on demurrage.</p>	<p>Draft/Lightage.</p>	<p>23. - Owners warrant that vessel's deepest draft shall not exceed ... feet</p> <p>Should the vessel be ordered to discharge at a place to which there is not sufficient water for her to get the first tide arrival without lightening, and the vessel always afloat, laytime is to count as per Clause 17 at a safe anchorage for similar vessels bound for such a place and any lightening expenses incurred to enable her to reach the place of discharge is to be at the expense and risk of the cargo, any custom of the port or place to the contrary notwithstanding, but time occupied in proceeding from the anchorage to the discharging berth is not to count as laytime or time on demurrage.</p> <p>Unless loading and/or discharging ports are named in this Charterparty, the responsibility for providing safe berths and/or safe ports of loading and/or discharging lies with the Charterers/Receivers provided Owners have complied with the minimum water depth minimums in clause 21.9 to 21.11.</p>	<p>Berths / places /</p>	<p>24. - It is understood that if this vessel is fitted with a deck, co-loader, dunnage and/or any other special fittings not connected with the carriage of grain in bulk, any extra expenses incurred in loading and/or discharging as a result of the presence of such a deck, co-loader, dunnage and/or special fittings are to be for Owners' account. This so far shall not count as laytime or time on demurrage.</p>	<p>Dues at German Ports St. Lawrence Seaway Toll.</p>	<p>25. - Quay/Wharf or Berthage dues at Germany shall be for Charterers/Receivers' account.</p>	<p>Water Pollution Clause.</p>	<p>26. - All St. Lawrence Seaway and/or Montreal Canal tolls on vessel and/or cargo assessed by Canadian and United States Authorities are to be paid and borne by Owners.</p>	<p>Water Pollution Clause.</p>	<p>27. - Owners warrant to have insured and to carry aboard the vessel a U.S. Federal Maritime Commission Certificate of Financial Responsibility as required under the U.S. Water Quality Improvement Act of 1972. In addition, Owners agree to comply with any and all Official Regulations pertaining to water pollution as applicable, any time lost on account of water pollution compliance with Government and/or State and/or Provincial regulations pertaining to water pollution shall not count as laytime or time on demurrage.</p>
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Bills of Lading, dated Brussels 25th August, 1924, the Hague Rules, or those rules as amended by the protocol signed at Brussels, February 23rd, 1924, the Hague-Visby Rules.	(H any) Exceptions 35.—The Owners shall be bound before and at the beginning of the voyage to exercise due diligence to make the ship seaworthy and to have her properly manned, equipped and supplied and neither the vessel nor the Master or Owners shall be held liable for any loss of or damage to or delay to the cargo for causes excepted by the B/L. The Charterparty shall be subject to the Charterparty of the vessel, dated 1924, the Hague Rules, or those rules as amended by the protocol signed at Brussels, February 23rd, 1924, the Hague-Visby Rules. And neither the vessel, her Master or Owners, nor the Charterparty or Receivers shall, unless otherwise in this Charterparty expressly provided, be responsible for loss of or damage to or delay to or failure to supply, load, discharge or deliver the cargo afloat or resupplying from.—Act of God, act of war, act of public enemies, pirates, or assault, thieves, arrest or restraint of princes, rulers or people, seizure under legal process, provided bond is promptly furnished to release the vessel or cargo; floods; fire; blockades, riots; insurrections; Civil Commotions; earthquakes, explosions. No exception afforded the Charterparty or Receivers under this clause shall relieve the Charterparty or Receivers of or diminish their obligation for payment of any sum due to the Owners under provisions of this Charterparty if the cargo is the property of the Charterparty, the Owners shall have the same responsibility as they would have under this Clause had the cargo been the property of a third party and carried under a Bill of Lading incorporating the Hague Rules. * Delete as appropriate.
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(b) London. All disputes arising out of this contract shall be arbitrated at London and, unless the parties agree for the arbitration to be referred to the final arbitrator, the arbitrator shall be a member of the London Maritime Arbitrators Association (LMAA) and shall be appointed by each of the parties with power to such arbitrators to appoint an arbitrator. No award shall be questioned or invalidated on the basis of the arbitrator's decision. The arbitrator is not qualified as above, unless objection to his acting be taken before the award is made. The Charter Party to be construed in accordance with English Law and LMAA rules to apply. The Charterers shall be discharged and released from all liability in respect of any claim or claims which Owners may have under this Charter Party and such claim shall be totally extinguished, unless such claims have been notified in detail to Charterers in writing accompanied by all available supporting documents (whether relating to liability or quantum or both), within twelve months from completion of discharge of the appropriate cargo under this Charter Party.

* Delete as appropriate.

All disputes from time to time arising out of the contract shall, unless the parties agree for the arbitration to be referred to the final arbitrator, be referred to the final arbitrator, who shall be engaged in the shipping trade and be a member of the LMAA, one to be appointed by each of the parties, with power to such arbitrators to appoint an arbitrator. No award shall be questioned or invalidated on the basis of the arbitrator's decision. The arbitrator is not qualified as above, unless objection to his acting be taken before the award is made. The Charter Party to be construed in accordance with English Law and LMAA rules to apply. The Charterers shall be discharged and released from all liability in respect of any claim or claims which Owners may have under this Charter Party and such claim shall be totally extinguished, unless such claims have been notified in detail to Charterers in writing accompanied by all available supporting documents (whether relating to liability or quantum or both), within twelve months from completion of discharge of the appropriate cargo under this Charter Party.

Additional Clauses Nos. 45 through 66 inclusive, as well as the AGT Vessel Voyage Description Page and Owners' fully completed response to Charterers' Questionnaire, as attached, are all deemed to be fully incorporated in and form an integral part of this Charter Party.

THE OWNERS

THE CHARTERERS

08/05-2004 09:08 FAX +49 40 80098221

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H. VOGEMANN
GmbH
HAMBURG

Enc. TDN
18th MARCH, 2004

ADDITIONAL CLAUSES

57.-Insurances.

Owners warrant that the vessel is entered and will remain fully covered for the duration of this Charter Party (for both Head Owners and Disponent Owners responsibility / liabilities) by first class P & I Club/s including liability for oil pollution and first class Hull and Machinery insurers. Owners further warrant that all vessel's certificates required by national / international law are valid and will remain valid for the duration of this Charter Party.

58.-Agents.

Owners to appoint vessel's agents at loading and as nominated by Charterers at discharging port, for vessel's usual port matters including signing Bills of Lading. Such Agents to remain the servants of the Owners, who are to pay customary Agency fees. Owners have the right to appoint protecting agents.

59.-Cargo Quantity.

It is understood that Owners / Master cannot call for a quantity of cargo in excess of that permitted under Charter Party terms nor in excess of the quantity that vessel is able to lift in compliance with any loading and / or discharging draft restrictions and / or any other Charter Party limitations.

Agents are as follows:

Altamira
Lic Armando Reyna Alanis
Director
Agencia Consignataria Del Golfo S.A. de C.V.
"Golmar" Tampico/Altamira
telephone : 833-2192988, 2122889, 2124824
fax : 833-2123119
mobile phone: 833-2184665
e-mail : areyna@acgolf.com.mx

Progreso
Report Progreso, S.A. de C.V.
Calle 25 no.156 x 84 Centro
Progreso, Yucatan.
tax i.d. - rpr-941114-fig
c.p. 97320
tel/fax 969 9350305 / 969 93 51090
e-mail: report@multired.net.mx
contact: C. César E. Tujin Méndez-operations mobil 999 9580507

Vitoria
Wilson Sons - Shipping
Av. Pnncesa Isabel n° 599 - 9° andar
Centro - Vitoria
CEP - 29010-361
Tel - 55-27-3232-1422
Fax - 55-27-3222-1297
Website - www.wilsonsons.com.br

60.-Liability.

Owners warrant that the vessel is in all respects eligible for trading to the ports, places and / or countries specified in this Charter Party.

833 2600 215

gdwcr.act@argdwcr.com.mx

08/05-2004 09:09 FAX +49 40 80098221

014

H. VOGEMANN
GmbH
HAMBURG

HBC-TN
18th March, 2004
ADDITIONAL CLAUSES

61.-Confidential Fixture.

This fixture to be kept strictly private and confidential by all parties and not to be reported to anybody.

62.-Laydays / Cancelling.

Laytime for loading, if required by Charterers, not to commence before 08:00 hours on the 15th April, 2004 for 40,000 mts to Almirra, on the 15th May, 2004 respectively 15th June, 2004, for the May and June cargoes in Charterers' option 30,000 mts x 2 to Progresso or Almirra, or 40,000 mts x 2 to Almirra, or 30,000 mts to Progresso and 40,000 mts to Almirra.

Should the vessel's Notice of Readiness not be tendered and accepted as per Clause 17 before 24:00 hours on the 30th April, 2004, on the 31st May, 2004 respectively on the 30th June, 2004, the Charterers or their agents shall at any time thereafter, but not later than one hour after the Notice of Readiness is rendered, have the option of cancelling this Charter Party. When it becomes known to the Owners, that vessel's arrival will not be prior to cancelling date as stated before, the Owners will advise the Charterers of her ETA load port together with a new cancelling date and Charterers to confirm within 48 hours whether or not they cancel this shipment or accept the new date of cancellation.

Each next destination/cargo size to be declared by Charterers latest upon arrival at Tubarao/Tubarao anchorage of the ship performing preceding shipment.

Owners to nominate final performer with 7 days prior to load port.

63.-Freight Payment

Owners' banking details are as follows:

Vereins- und Westbank AG
Alter Wall 22, 20457 Hamburg
USD Account: 910 04 40 56
Swift Code: VUWBDEHH
Beneficiary: HBC Hamburg Bulk Carriers GmbH & Co. KG
Ref: MV "HBC-TBN" / PROTEINOL - C/P 18.03.2004

64.-Vessel's Description.

MV "TBN"

- geared single deck bulk carrier
- maximum 25 years
- classed highest Lloyd's or equivalent
- fully ism certified
- fully P & I covered
- minimum 10 is gear

65.-Notices.

Master/Owners to tender 7/5 days approximate notice and 3/1 days definite notice for load port and for discharge port Master/Owners to tender departure notice, 14/10/7/5 days approximate notice and 3/1 days definite notice.

The Charterers are to be kept continuously advised by telegam/telex of any alteration in vessel's readiness to load date.

- (d) to discharge at any other port any cargo or part thereof which may render the vessel liable to condemnation as a contraband carrier;
- (e) to call at any other port to change the crew or any part thereof or other persons on board the vessel when there is reason to believe that they may be subject to internment, imprisonment or other sanctions.
- (f) where cargo has not been discharged by the Owners under any provisions of this Clause, to load other cargo for the Owners' own benefit and carry it to any other port or ports whatsoever, whether backwards or forwards or in a contrary direction to the ordinary or customary route.
- (g) If the compliance with any of the provisions of sub-clauses (2) to (5) of this Clause anything is done or not done, such shall not be deemed to be a deviation, but shall be considered as due fulfillment of the contract of carriage.

ADDITIONAL CLAUSES

HBC - TBN
18th MARCH, 2004

H. VOGEMANN
GmbH
HAMBURG

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(d) insured for Hull and Machinery and basic war risks purposes,
underwriter and the Owners shall provide, on request, evidence of such insurance,
(c) fully insured in respect of loss or damage to cargo by Protection and Indemnity Club or liability

Furthermore, the vessel shall be:

(b) throughout the currency of this Charter Party to ensure that the vessel and her Master, officers and crew comply with safety, health and other applicable laws and regulations of the vessel's flag state and of the places where she trades necessary to secure the safe and unhindered loading of the cargo, performance of the voyage and discharge of the cargo.

(a) before and at the beginning of the voyage to make the vessel seaworthy and in every way fit for the voyage and for the trade for which she is to be employed;

The Owner and the Charterer hereby agree that they shall make safety and quality considerations an integral part of their chartering activities. In particular, the Owners shall exercise due diligence:

51.-BIMCO Bulk Shipping Quality Clause

The vessel is guaranteed suitable for grab-discharge. Charterers have the option of using tractors in vessel's holds, provided unit weight of such devices is in accordance with vessel's tanktop strength.

50.-Grab-Discharge etc.

Vessel's holds to be fumigated at Charterers' time, risk and expense and time at load port to count upon completion of loading and holds will be closed and sealed. Fumigation exposure to be during the vessel's transit time to discharge port. Upon arrival at discharge port, ventilation time, if any, to be for Charterers' time, and time for discharge to count.

49.-Fumigation.

A sailing telegram is to be sent by the Master to Charterers, on vessel's leaving loading port, giving ship's name, call letters, sailing date and port, exact quantity of cargo loaded and ETA off the discharging range.

48.-Sailing Notice.

Master.

47.-Statements of Facts at loading and discharging ports to be signed by the Agents of the Ship and by the

46.-Bunkering Operations.
The vessel is allowed to bunker during loading / discharging operations, provided port terminal authorities permit and provided Owners guarantee that bunkering will not interfere with loading / discharging operations and all damages done to the cargo by bunkering to be paid by Owners.

45.-Warping.
The Master and crew to collaborate in all quay / pier movements necessary to accommodate shore loading / discharging equipment in the respective holds / spaces. Warping, if required to facilitate loading / discharging operations, to be for Owners' account, however, tug assistance, pilots, linesmen, if required, to be for Charterers' account, and laytime used in warping to count.

ADDITIONAL CLAUSES TO THE CHARTER PARTY M/V "HBC - TBN"
DATED HAMBURG, 18TH MARCH, 2004

H. VOGEMANN
GmbH
HAMBURG

(c) Owners to release Bills of Lading for cargo shipped on board for such quantity as may be required by Charterers, prior to vessel's completion of loading, against payment by Charterers of the corresponding freight.

(b) Charterers' option to issue Bills of Lading marked "Freight payable as per Charter Party", in which case Owners to authorize release of Bills of Lading upon receipt of Charterers' Bank's written confirmation the 100 % freight as per Clause 9 (b) has been irrevocably transferred to Owners' Bank.

(a) Clean Mate's Receipts to be signed for each parcel of cargo when on board, and Master to sign Bills of Lading in accordance therewith as requested by Charterers / Shippers or their agents. Master to reject any cargo that would involve the clausings of Mate's Receipts and / or Bills of Lading. Any time lost / expenses involved due to Master's rejection to be for Charterers' account provided that Master has validly rejected said cargo.

56.--Bills of Lading.

(a) Clean Mate's Receipts to be signed for each parcel of cargo when on board, and Master to sign Bills of Lading in accordance therewith as requested by Charterers / Shippers or their agents. Master to reject any cargo that would involve the clausings of Mate's Receipts and / or Bills of Lading. Any time lost / expenses involved due to Master's rejection to be for Charterers' account provided that Master has validly rejected said cargo.

55.--Boycott.

Any boycott due to performing vessel's flag / ex-flag and / or class and / or ownership / ex-ownership to be at Owners' time, risk and expense.

54.--BIMCO ISM Clause.

During the currency of this Charter Party the Owners shall procure that both the vessel and "the company" (as defined by the ISM Code) shall comply with the requirements of the ISM Code. Upon request the Owners shall provide a copy of the relevant Document of Compliance (DOC) and Safety Management Certificate (SMC) to the Charterers. Except as otherwise provided in this Charter Party, loss, damage, expense and / or delay caused by the failure on the part of the Owners of "the company" to comply with the ISM Code shall be for Owners' account.

53.--Taxes and Dues.

At loading and discharging port(s), any taxes and / or dues on cargo to be for Charterers' / Receivers' account and any taxes and / or dues on vessel and / or flag to be for Owners' account, irrespective of the method of calculation.

unless used.

52.--(a) Time Counting at the Loading Port.

At the loading port, laytime in accordance with the provisions of Clause 18 paragraph (b) shall not count from Saturdays or from 1700 hours, on days prior a holiday, until Monday at 8 AM, or 8 AM on next working day.

The provisions of this Clause shall be without prejudice to the other rights, obligations and defences of the Owners under this Charter Party including, where applicable, those of the Hague- or Hague-Visby Rules.

(e) classed and the Owners warrant that this class shall be maintained throughout the currency of this Charter Party.

ADDITIONAL CLAUSES

18 MAR 2004

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H. VOGEMANN

GmbH

HAMBURG

THE CHARTERS

THE OWNERS

Hamburg, 6th April, 2004

All other terms and condition of this Charter Party to remain unaltered.

- same terms and conditions as per present fixture, except decrease of freights as follows:
USD 41,-/mt for 40.000 mts cargo
USD 43,-/mt for 30.000 mts cargo
- and in Charterers' option to be declared latest closing of business Mexico City April 19th:
6th voyage – laycan August 1st – 15th
- extension of present Charter Party for 2 further voyages as follows:
4th voyage – laycan July 1st – 15th
5th voyage – laycan July 16th – 31st

it is mutually agreed that:

and Proteinax Y Oleicos S.A. de C.V. Merida, Yucatan/Mexico (Charterers),
between HBC Hamburg Bulk Carriers GmbH & Co. KG, Hamburg/Germany (Disponent Owners),

IT HAS BEEN MUTUALLY AGREED,

TO THE CHARTER PARTY M/V HBC-TBN DATED HAMBURG, 18TH MARCH, 2004

ADDENDUM Nº 2

TO THE CHARTER PARTY M/V HBC-TBN DATED HAMBURG, 18TH MARCH, 2004

IT HAS BEEN MUTUALLY AGREED,

between HBC Hamburg Bulk Carriers GmbH & Co. KG, Hamburg/Germany (Disponent Owners),

and Proteínas Y Oleicos S.A. de C.V. Merida, Yucatan/Mexico (Charterers),

it is mutually agreed that:

- as from nomination no. 2 onwards 100pct freight less undisputed despatch or plus undisputed demurrage at loadport and any balances - provided due - from previous voyages, whatever applicable, shall be paid latest two banking days prior arrival of discharge port.
 - in order to assist Charterers in their logistics, Owners agree to change agreed shipment dates from 1st-15th July, 2004 to 1st-15th August, 2004.
- Schedule then (sofar): 15th-30th June, 2004, 16th-31st July, 2004, 1st-15th August, 2004

All other terms and condition of this Charter Party to remain unaltered.

Hamburg, 21st May, 2004

THE OWNERS

THE CHARTERERS

ADDENDUM Nº 3

TO THE CHARTER PARTY M/V HBC-TBN DATED HAMBURG, 18TH MARCH, 2004

IT HAS BEEN MUTUALLY AGREED,

between HBC Hamburg Bulk Carriers GmbH & Co. KG, Hamburg/Germany (Disponent Owners),

and Proteinás Y Oleicos S.A. de C.V. Merida, Yucatan/Mexico (Charterers),

it is mutually agreed that:

- 1) Freight rates for voyages 4 and 5, to be reduced by USD 2,--/mt from the present rate, i.e. USD 41,--/mt for Progreso and Altamira on 30,000 mts, and USD 39,--/mt for 40,000 mts for Altamira. Demurrage rates to be changed to USD 28,000,-- per day pro rata for 30,000 mts, and USD 30,000,-- for 40,000 mts. The agreed demurrage/freight rates are non-renegotiable by Charterers.

- 2) Voyage 4, initial agreed laycan 1st - 15th July (amended to 1st - 15th August, 2004), to be performed with a laycan of 1st - 15th September, 2004, and voyage 5, initial agreed laycan 16th - 31st July, to be performed with a laycan of 15th - 30th September, 2004. Destination and quantity of voyage 4 to be declared by Charterers latest on 6th August, 2004. Destination and quantity of voyage 5 to be declared by Charterers latest on 20th August, 2004.

- 3) Proteinol will have HBC's participation in all her ocean freight requirements for the balance of 2004.

- 4) Proteinol will also have HBC's participation for the 2005 CoA tender, which will have verification for mid November/early December, 2004; involving 2 voyages per month from January to December, 2005 ex US Gulf to East Coast Mexico with bulk soybeans.

- 5) Proteinol will also request HBC's participation for the soybeans imports ex Tubarao for 2005, when this is ready to be performed.

- 6) Proteinol confirm to credit HBC's account with the outstanding balance amounting to USD 154,690,28 latest on Monday the 19th July, 2004.

All other terms and condition of this Charter Party to remain unaltered.

Hamburg, 14th July, 2004

THE OWNERS

 Owners' signature:
 Name and title (in block letters):
 Stamp:

THE CHARTERERS

 Charterers' signature:
 Name and title (in block letters):
 Stamp: